

## **Appendix E**

### **South Coast AQMD Carl Moyer Program Audit Results**



**Appendix E**  
**Table of Contents**

ARB Letter to South Coast AQMD Announcing Audit Results .....	E-1
ARB Audit Report.....	E-5
South Coast AQMD Response .....	E-23





Linda S. Adams  
Secretary for  
Environmental Protection

# Air Resources Board

Robert F. Sawyer, Ph.D., Chair  
1001 I Street • P.O. Box 2815  
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Arnold Schwarzenegger  
Governor

October 2, 2006

Dr. Barry Wallerstein  
Air Pollution Control Officer  
South Coast AQMD  
21865 East Copley Drive  
Diamond Bar, California 91765-4182

Dear Dr. Wallerstein:

As you know, the Air Resources Board recently conducted a review of the South Coast Air Quality Management District's Carl Moyer Program. This was part of our program oversight responsibility per state law [Health and Safety Code section 44291(d)]. We appreciate the professionalism and cooperation of your staff during the audit.

Our report is enclosed and our major findings can be summarized as follows. In many areas, including outreach and project diversity, the District operates an exemplary program. However, we have three critical findings that require action. The most serious concern is that the District has not, in the past, expended funds in a timely manner. Approximately \$10 million of prior year awards have yet to be expended. This tardiness has delayed the expected emissions reductions for a significant portion of the program. Our second critical finding relates to the cost-effectiveness calculations for two projects. The third finding has to do with missing contract language requirements. We understand that the District has taken steps to remedy all of these issues and we appreciate those efforts.

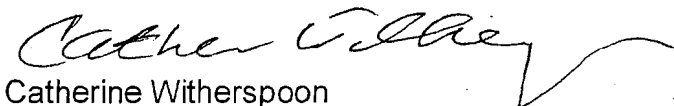
As a formality I need to remind you that ARB's audit guidelines give the District 30 days from the date of this letter to submit a written plan of action to address the findings in the audit report. Also per the guidelines, if the District does not act, its Carl Moyer Program will be deemed "at-risk" and additional oversight from ARB may be required.

Our audit report and your written responses are public, and will be included in the annual Carl Moyer Program update to our governing Board in January 2007. We encourage the District to make this information public locally as well.

Dr. Barry Wallerstein  
October 2, 2006  
Page 2

If you have any questions about the audit, please contact me at (916) 445-4383 or contact Mr. Robert H. Cross, Chief, at (626) 575-6807.

Sincerely,



Catherine Witherspoon  
Executive Officer

Enclosure

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Continued next page

Dr. Barry Wallerstein  
October 2, 2006  
Page 3

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**Carl Moyer Air Quality Standards Attainment Program  
Audit Report**

**South Coast Air Quality Management District  
Fiscal Years 2002/2003 and 2003/2004**

**Prepared by:  
Mobile Source Control Division  
Air Resources Board**

**October 2006**

## TABLE OF CONTENTS

Executive Summary .....	1
I. Background .....	3
II. Audit Procedure .....	4
III. SCAQMD's Implementation of the Carl Moyer Program .....	5
IV. Commendable Efforts .....	7
V. Recommendations for Future Program Improvements .....	9
VI. Findings, Conditions and Required Actions .....	10
Attachment: List of Projects Reviewed	

## **Executive Summary**

The Carl Moyer Air Quality Standards Attainment Program is a voluntary grant program that funds the extra capital cost of cleaner than required vehicles and equipment in order to reduce air pollution. The Carl Moyer Program is implemented through a partnership between the Air Resources Board and California's 35 local air districts. The ARB distributes state funds to local districts, develops statewide guidelines, and conducts periodic oversight. Air districts select and fund clean air projects in their areas that meet the requirements of the Health and Safety Code and the statewide guidelines. Districts also provide local match funds and resources to administer the Program.

The South Coast Air Quality Management District is responsible for air quality in portions of Los Angeles, Riverside, San Bernardino counties and all of Orange County. The region's does not meet federal or California health-based standards for ozone (smog) or particulate matter (soot) and its air quality is among the worst in the nation. The Carl Moyer Program is critical to achieving near term emission reductions for the region and is reflected in the South Coast's federally-required State Implementation Plan – the District's road map for describing how the region will achieve healthful air.

As the most populous District in California, SCAQMD has been awarded more than \$108 million in Carl Moyer Program funds over the first eight years. That is approximately 43 percent of the statewide total. The District has leveraged the state dollars with over \$37 million in local funds.

To meet its oversight responsibilities, ARB staff audited SCAQMD's implementation of the Carl Moyer Program to ensure compliance with state law and applicable guidelines. The audit focused on funds provided by Proposition 40, California's Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act, which cover the 2002/03 and 2003/04 fiscal year funds (Years 5 and 6, respectively). The ARB staff also reviewed Years 7 and 8 to determine if the District is complying with recent law changes and the Carl Moyer Program Guidelines approved by the Board in November 2005.

Our audit found that Proposition 40 funds have not been expended in a timely manner. State law requires all funds to be expended (invoices paid and projects in operation) within a two year timeframe. Approximately half of the Proposition 40 funds were required to be expended by June 30, 2005 and all funds were required to be expended by June 30, 2006. At the time of the audit (July 2006), approximately \$10 million of the \$15.6 million Proposition 40 funds received by the District had not been expended. As a result approximately two-thirds of the anticipated emission reductions, over 300 tons per year of NOx and approximately 15 tons per year of PM, have not yet been achieved.

District staff indicated that the delay in spending Carl Moyer Program funds is due to several factors: lack of resources for adequate project follow-up, contracts falling through because grantees decide not to take funds, and delays in contract execution. SCAQMD has recently expanded its staff resources dedicated to the Carl Moyer Program and is implementing several new procedures to expedite expenditures. The District also guaranteed the ARB that these funds will be expended by July 2007 and anticipated reductions will be achieved by that time.

Under a strict interpretation of funding guidelines, unspent funds would be returned to the ARB for redistribution or remanded to the State's General Fund. However, the ARB recognizes the importance of achieving emission reductions in California's most severely impacted region. Also, we recognize that the Carl Moyer Program funds are vital to achieving that objective. For its own part, the District recognizes the importance of expediting projects to obtain reductions at the earliest, most practicable date. Therefore all funds promised to projects by contracts will remain in the District.

The District is hereby required to report quarterly on its progress for expenditures. ARB will also conduct a follow-up audit of the District to verify that funds are expended and to confirm that the District's new measures indeed expedite expenditures. If the funds have not been fully expended by July 1, 2007 then the SCAQMD will be deemed an "at-risk" district, and the ARB will look to recapture funds.

The ARB is making two additional findings as a result of its audit. These findings relate to miscalculations of cost-effectiveness for two projects resulting in the required reprogramming of \$10,000 and missing contract language requirements. The District has already taken steps to mitigate or correct these issues.

The ARB's audit also found that the District program encompasses a number of commendable efforts that noticeably go above and beyond the basic Moyer requirements. Most noteworthy is that the District has designed their program to fund the widest diversity of projects in California - achieving significant participation by public and private fleets, construction companies, railyards, port operators, marine operators, and farmers. A necessary corollary to this is that the District has one of the most extensive outreach programs in the State. Finally, the SCAQMD has spent considerable effort in developing a robust Environmental Justice program, and the District ensures that the minimum Environmental Justice requirements are clearly exceeded each year. In these areas, the District's program may serve as a model for the Moyer program in other districts.

The California Department of Finance (DOF) conducted a simultaneous audit of the SCAQMD's administrative process for expenditures of Proposition 40 funds (years 5 and 6) of the Carl Moyer Program and Lower Emission School Bus Program. The ARB staff worked closely with the DOF during its audit to assist with DOF inquiries regarding the statewide Carl Moyer Program. The DOF established and followed independent protocol and procedures for their audit and is currently drafting an audit report that will also be available to the general public upon completion.

## **I. Background**

The Carl Moyer Program funds the incremental cost of purchasing cleaner-than-required engines and equipment. The multiple benefits of the Program include: accelerating the commercialization of advanced emission controls, accelerating turnover of old equipment, and helping to reduce costs to the regulated community. The Carl Moyer Program is implemented by a partnership of the ARB and local air districts. Local districts solicit applicants and select, fund and monitor projects. The ARB oversees the statewide program to ensure funds are expended as required by law and the Carl Moyer Program Guidelines ([www.arb.ca.gov/msprog/moyer/moyer.htm](http://www.arb.ca.gov/msprog/moyer/moyer.htm)). The ARB audits each district periodically to ensure funds are expended as required. The audits also provide the ARB with a mechanism for identifying potential improvements to the statewide program.

The SCAQMD is the largest local air quality district responsible for air quality in portions of Los Angeles, Riverside, San Bernardino counties and all of Orange County. Due to large number of sources such as ports, airports, trucks, passenger vehicles, and railyards, the South Coast region's air quality does not meet federal or California health-based standards for ozone (smog) or particulate matter (soot) and is among the worst air quality in the nation. Emission reductions from the Carl Moyer Program are critical to achieving near term air quality improvements in the region. These reductions are also reflected in the region's federally-required State Implementation Plan – the District's road map for describing how the region will achieve healthful air.

As the District with the largest population, SCAQMD has been awarded more than \$108 million in Carl Moyer Program funds for years 1 through 8, approximately 43 percent of the total statewide funds. The District has leveraged the state dollars with over \$37 million in local funds.

The ARB's audit of the SCAQMD's Carl Moyer Program satisfies the requirements of Health and Safety Code section 44291 with regard to the ARB's audit responsibilities. This audit focuses on Year 5 and 6 projects that drew on Proposition 40 funds, California's Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act. The ARB reviewed the District's program for Years 5 and 6 to determine if the District followed the Health and Safety Code as well as the 2003 Carl Moyer Program Guidelines, the required Guidelines for these two program years. This audit also reviewed implementation of Year 7 and 8 funds, when SB 1107 and AB 923 went into effect and the Program experienced a significant influx of funding. Although year 7 and 8 funds are not required to be fully expended until June 30, 2007 and June 30, 2008, respectively, the ARB staff reviewed these funds to evaluate the impacts of the expanded program and the 2005 Carl Moyer Program Guidelines.

Staff from both the ARB and SCAQMD participated in this audit. The ARB audit team included ARB management – Robert Cross, Jack Kitowski, Edie Chang, Lucina Negrete and John Kato - and the Carl Moyer Program staff – Heather Arias (district liaison to SCAQMD), Bruce Tuter, Dave Salardino, Joe Calavita, Susan Levenson-Palmer, Bob

Nguyen, Araliza Manuel, Margaret Sanchez and Jesse Lopez. The ARB audit team wishes to thank the participating SCAQMD management and staff – Barry Wallerstein, Chung Liu, Kurt Wiese, Barbara Baird, Rick Pearce, Fred Minassian, Dean Saito, Elisa Virgo, Dean Hughbanks, Mike Harris, Connie Day, Drue Ramirez, Lani Montojo, Cheryl Wade, Haydee Pearce and Penny Shaw Cedillion.

## **II. Audit Procedure**

The ARB's audit of SCAQMD's Carl Moyer Program was conducted in two phases: a desk review and an on-site review. The desk review began on May 30, 2006 and the on-site review began on July 6, 2006. The desk review included the District's request for proposal (RFP), application, draft policies and procedures, contract language, outreach, and selection process of projects for Years 5 and 6. During the desk review the ARB staff also analyzed the implementation of the expanded Carl Moyer Program by reviewing the same documents for Years 7 and 8. The following documents were reviewed to determine if the District is following the new administrative procedures with their Year 8 funds as required in the 2005 Carl Moyer Program Guidelines:

- Draft Policies and Procedures Manual which describes District practices for Carl Moyer Program Implementation (final version is required to be submitted to the ARB by November 15, 2006 as described in section IV.G. of the Guidelines)
- Year 8 Request for Proposal, including the District application
- Engine Inspection Forms
- Boiler Plate Contract Language for Year 8 projects

The desk review included selecting a sample of projects for the file review that would receive a thorough on-site review. The sample was taken from projects that were paid for with state funds and District local match funds under the Carl Moyer Program and included:

- Ten Year 5 projects, representing the on-road, off-road, marine, and locomotive source categories, and infrastructure (funded with match funds)
- Twelve Year 6 projects, representing the on-road, off-road, marine, locomotive, idle reduction, and forklift categories and infrastructure (funded with match funds)

While at the District's office, the ARB staff randomly selected two additional projects to evaluate the district's implementation of year 7 funds and to assess the District's implementation of the additional requirements in the 2005 Guidelines.

The ARB audit team completed a review of the program and fiscal files for 24 projects. Field visits were conducted for 12 of the projects because only 12 of the 24 projects selected were completed and in operation at the time of the audit. To provide District staff with sufficient time to set up the field visits, the ARB staff notified District staff of the 12 projects with field visits on June 28, 2006. Attachment 1 contains a list of the sampled projects reviewed.

During the on-site review, the ARB audit team reviewed fiscal files to document the District's practices for tracking and documenting state and local match funds expended, interest earned and beginning with Year 7, state funds used for outreach and program administration.

The California Department of Finance (DOF) conducted a simultaneous audit of the SCAQMD's administrative process for expending Proposition 40 funds (years 5 and 6). ARB staff worked closely with the DOF during its audit to assist with DOF inquiries regarding the statewide Carl Moyer Program. The DOF established and followed independent protocol and procedures for their audit and is currently drafting an audit report that will also be available to the general public upon completion.

The results of the ARB audit are presented below. Section III describes the SCAQMD's Carl Moyer Program. Section IV identifies commendable efforts in the District. Section V outlines recommended improvements for the District's continued success. Section VI provides the findings, conditions and required actions based on ARB audit team's review of District's files and project site visits. "Findings" are practices that are inconsistent with state guidelines and/or the District's written policies and procedures. "Conditions" are more detailed descriptions of the practices the ARB audit team observed during the audit period. "Required Actions" are the minimum actions the District must take to remedy the findings. The District must respond to the findings detailed in Section VI within 30 days of notification, but may also respond to any recommendation provided in this report.

### **III. SCAQMD's Implementation of the Carl Moyer Program**

For each funding year, the SCAQMD develops a request for proposal (RFP) with specific dollar amounts allocated to selected equipment categories. The RFP goes to the District's Technical Committee for consideration and, once approved, is forwarded to the District Governing Board for approval. Approved RFPs are posted at [http://www.aqmd.gov/tao/implementation/carl\\_moyer\\_program\\_2001.html](http://www.aqmd.gov/tao/implementation/carl_moyer_program_2001.html). Hardcopy format can be obtained at SCAQMD's Diamond Bar facility and applicants can request a copy to be mailed to them by contacting SCAQMD staff. Following the release of the RFP, SCAQMD begins extensive outreach efforts per its Procurements Policy and Procedures. A public notice advertising the RFP and inviting applications is published in the Los Angeles Times, the Orange County Register, the San Bernardino Sun, and the Riverside County Press Enterprise newspapers. Outreach efforts also include workshops, advertising in multiple publications, letters to mailing and e-mail lists, web postings, a 24-hr message line, presentations to groups, and program brochures. The District's RFP outlines eligibility requirements, how to calculate cost-effectiveness, boiler plate contract language, applications and a list of required documentation including a form for the applicant to indicate if it qualifies as a small business or as a Disabled Veteran. Although funds are not specifically set aside to pay for small business projects, SCAQMD will meet with small businesses and work directly with them in completing an application.

The District's RFP states its policy that only alternative fuel projects are eligible for on-road engine repowers and purchase of new on-road vehicles. New on-road diesel purchases or repowers are not funded by SCAQMD. Beginning in Year 7, retrofit of in-use diesel vehicles with the highest available verified level particulate matter traps or diesel oxidation catalysts verified by ARB are allowed. In the off-road categories, both alternative fuel and diesel to diesel projects are eligible. In addition, SCAQMD has implemented a low emission engine/vehicle, zero emission vehicles (ZEV) and other alternative fuels, preference policy.

SCAQMD staff evaluate projects under the Carl Moyer Program Guidelines and any additional requirements specifies in the RFP. In addition, applications are ranked for Environmental Justice (EJ) per AB 1390. A list of eligible projects categorized by equipment type is sorted based on EJ ranking, followed by cost-effectiveness. Selected projects are considered by the Technical Committee and then forwarded to the District Governing Board for approval. Once approved, a contract is executed and work can begin. When projects are completed, the engine owner submits an invoice to the District. District staff ensure the project is complete and invoiced as required. Beginning with Year 7 projects, staff also conduct a post-project inspection. Approved invoices are submitted to the District's Finance Department for check generation and disbursement.

Throughout the term of the contract, the District requires grantees to report quarterly and annually. Quarterly status reports are required until the project has been accomplished and include information on any problems encountered and how they were resolved, changes in schedule, and recommendations for project completion. Once the project is in operation annual reports are required from participants. These reports include information on usage, location of operation, and operation and maintenance issue encountered and how they were resolved.

As an example timeline for this process, the RFP for year 8 funds was released on February 3, 2006. Applications were due to the district approximately three months (May 5, 2006) after the release of the RFP. SCAQMD Technical Committee's consideration of the selected projects is currently scheduled for September 22, 2006. If approved, the project selection list will then be forwarded to the District Governing Board for consideration on October 6, 2006, approximately five months after applications were due. Fully executed contracts should be in place early 2007. Projects must be in operation and paid for no later than June 30, 2008.

Based on the Year 5 and 6, project files reviewed by the ARB staff during the 2006 Program audit of SCAQMD, the average time from application submittal to project completion (invoice paid and project in operation) is 30 months for those projects that have been completed. However as noted in Section VI, two-thirds of the projects have not yet been completed. Part of this delay may be a result of delays in contract execution (contracts signed by SCAQMD and applicant). For SCAQMD, achieving fully executed contracts for Years 5 and 6 took anywhere from two to 25 months.



Once Years 1 through 7 funds are spent, it is anticipated that the District's program will pay for 3,061 cleaner engines. The ARB anticipates these projects will reduce NOx emissions by over 2,800 tons and PM by over 100 tons annually. SCAQMD leveraged Years 1 through 7 funds with over \$32 million of District match. Through Year 8, the SCAQMD has been allocated a total of \$108.5 million in Carl Moyer Program funds leveraged with over \$37.3 million of District match.

#### **IV. Commendable Efforts**

The commendable efforts included in this section are noteworthy accomplishments by the District. Commendable efforts are exceptional practices that should serve as a statewide model for the Carl Moyer Program.

##### **A. Diversification of Projects**

SCAQMD is dedicated to funding a diversified range of projects. It is notable that the District's project selection is broader than any other district in the state, spanning over all possible source categories (on-road, marine, off-road, forklift, locomotives, agricultural engines, ground support equipment, truck stop electrification and auxiliary power units). This requires SCAQMD to take on a higher burden as staff must be knowledgeable in many more source category areas.

##### **B. Outreach**

Outreach efforts for the SCAQMD Carl Moyer Program have proven to be successful as directly reflected in the number of applications received, which for funding Years 5 through 7 exceeded funding available by six times. SCAQMD outreach includes both extensive publications as well as personal outreach. SCAQMD advertises the RFP in multiple publications and local newspapers, conducts workshops, and provides presentations to small businesses and industry organizations. Letters and brochures are also sent to mailing lists, electronic notifications are sent to personal lists and lists compiled from SCAQMD sponsored meetings/conferences, information is posted on SCAQMD's website as well as industry websites and is available through a 24-hr message line.

##### **C. Environmental Justice**

Each Year SCAQMD has exceeded the requirements of AB 1390 which requires at least 50 percent of Carl Moyer Program funds be spent in areas that are significantly impacted by air pollution and are low income or communities of color, or both. SCAQMD has defined eligible projects to include those in areas with the highest 15 percent of particulate matter (PM) concentrations, projects in areas with a cancer risk of 1,000 in a million and above, and projects in areas where at least 10 percent of the population falls below the federal poverty level. EJ scores are comprised of 40 percent for poverty level, 30 percent for PM and 30 percent for toxic exposure. It is SCAQMD's policy to first fund projects based on highest AB1390 EJ ranking, until 50 percent of the

funding is earmarked to qualifying projects. After that, funds are continually earmarked to additional projects using the cost-effectiveness ranking. Historically 10-25 percent of these additional projects have also qualified as AB1390 projects, exceeding the District's 50 percent funding requirement on EJ projects. A project's EJ score is filed electronically at SCAQMD and SCAQMD's guidance for implementing the requirements of AB1390 and qualifying areas may be found at [http://www.aqmd.gov/tao/implementation/disproportionate\\_impact\\_areas.htm](http://www.aqmd.gov/tao/implementation/disproportionate_impact_areas.htm).

#### **D. Responsiveness to Audit**

During the period of this audit, SCAQMD staff made considerable efforts to address issues identified by the ARB staff. Because of this responsiveness, a number of the items listed under the recommendations and findings sections include information on modifications and improvements the District has already or is in the process of implementing.

#### **E. Policies and Procedures Manual**

The 2005 Carl Moyer Program Guidelines require districts to submit their local policies and procedures manual for implementation of their local programs to the ARB by November 15, 2006. The Guidelines also outline minimum information that districts must include in these policies and procedures. During the audit, the District supplied the ARB with a proposed policies and procedures manual for review. The District's effort to submit this to the ARB during the audit period, in advance of the required deadline and before the District received a sample policies and procedures manual from the ARB, is noted as commendable.

### **V. Recommendations for Future Program Improvement**

SCAQMD should consider improving the current implementation of the Carl Moyer Program as noted below. A number of these improvements are required starting with Year 8 funds as noted in the corresponding 2005 Guidelines section which are cited in parenthesis. These recommendations do not require a response from the District, although the District may comment on the recommendations in the District's written response.

#### **A. Documentation**

During the audit the ARB staff observed that the hard copy project files did not consistently include cost-effectiveness calculations, documentation of inspection, eligibility determinations and environmental justice analysis. Beginning with Year 8, districts are required to maintain documentation in each of the Carl Moyer Program project's hard copy files of the project's eligibility verification and compliance with program requirements (sections V.D.2. and V.E.).

As a large agency, SCAQMD has departmentalized various tasks. As a result documentation for projects is not always located in the project file. However in every instance, the ARB staff was taken to and able to access necessary documentation. The ARB recommends that SCAQMD incorporate these departmentalized tasks into its *Carl Moyer Program Policies and Procedures Manual* due to ARB by November 15, 2006. SCAQMD is already in the process of accomplishing this task and is on track to present their Policies and Procedures to their Technology Committee for review on September 22, 2006 and forwarded to the SCAQMD Governing Board for consideration at their October 6, 2006 board hearing.

The ARB also found areas in which the District assist small businesses and has established a preference policy for low emission engine/vehicle, zero emission vehicles and other alternative fuels. The ARB encourages the District's solicitations of future funds to expand and document outreach and obligation to zero- emission and small business (section V.A.). The ARB also encourages the District to institutionalize these efforts in the District's policies and procedures manual.

## **B. Itemized Invoices**

The District currently includes invoices in its hard copy project and fiscal files from participant. However, in some cases an itemized invoice is not provided with the participant invoice. There are also cases in which an itemized invoice was provided yet it is unclear which items on the invoices are being paid for with Carl Moyer Program funds. The 2005 Carl Moyer Guidelines (section X.) require all project files to have itemized invoices that clearly delineate eligible expenses the District approves to be paid. The ARB staff recommends the District include the itemized invoice in the project file along with a clear delineation of the costs that were reimbursed with Carl Moyer Program funds. In addition, the practice for this delineation should be included in the District's policies and procedures manual (see Recommendation A. above).

### **C. Quality Assurance/Quality Control**

During the audit, file discrepancies and miscalculations were observed. With the recent expansion of the Carl Moyer Program funding and requirements an increase in quality control/quality assurance of program related documents is also necessary. Therefore, the ARB staff recommends the District develop an approach to ensure quality control/quality assurance and include it in the District's policies and procedures manual.

### **VI. Findings, Conditions and Required Actions**

This section specifies findings, conditions and required actions as a result of the ARB's review of SCAQMD's Carl Moyer Program. "Findings" are brief descriptions of practices that are inconsistent with state requirements under the Carl Moyer Program Guidelines and/or the District's written policies and procedures, including its contract with the engine owners. "Conditions" are more detailed descriptions of the practices the ARB audit team observed during the audit period. "Required Actions" are the minimum actions the District must take to remedy the findings. The District must provide the ARB with a written response to required actions by submitting a plan to remedy the respective findings listed below or will be "at-risk" as defined in section XI.B. of the 2005 Guidelines. The District's written response must be submitted to the ARB within 30 days of notification of the findings.

#### **Finding 1: Expenditures Not Meeting Deadline.**

Condition: SCAQMD fiscal records indicate that at least \$10,043,180 of the \$15,596,747 Proposition 40 funds have not been expended by the District within the two year timeframe required under State law (see sections 44299.2 (c) and 44287 (k) of the Health and Safety Code). As a result, two-thirds of the anticipated emission reductions, over 300 tons per year of NOx and approximately 15 tons per year of PM, have not yet been achieved. A two year timeframe is required so funds are expended, projects are completed and near term emission reductions are achieved.

H&SC section 44287 (k) states "any funds reserved for a district pursuant to this section are available to the district for a period of not more than two years from the time of reservation. Funds not expended by June 30 of the second calendar year following the date of the reservation shall revert back to the state board as of June 30, and shall be deposited in the Covered Vehicle Account established pursuant to section 44299".

Since the inception of the Program, Health and Safety Code sections 44287 (k) and 44299.2 (c), the Carl Moyer Program guidelines, and grant applications pertaining to each program year have all specified that funds must be expended within two years of June 30 for the year in which funds were reserved. Year 5 and 6 funds were reserved in June 2003 and June

2004, respectively. Therefore, June 30, 2005 and June 30, 2006 were the deadlines for expending all Year 6 funds.

SCAQMD staff have identified a number of factors that have led to delays in expending funds. These include a shortage of staff, delays in contract execution, projects being withdrawn from the program, and lack of back-up projects available for immediate use. SCAQMD has recently implemented several steps to help expedite expenditures, including increasing staff, shortening deadlines for grantees to fully execute contracts, and shortening deadlines for grantees to complete projects. Moreover, SCAQMD now has the authority to select backup projects from a Governing Board approved list.

During Years 5 and 6 of the Carl Moyer Program, SCAQMD staffing was limited to three full time employees. Beginning in Year 7 staffing was increased to seven full time employees and continues to increase.

After SCAQMD's Governing Board approved projects for Years 5 and 6, achieving a fully executed contract between the grantee and SCAQMD took anywhere from two to 25 months. Beginning in Year 7, SCAQMD required full execution of all contracts by June 30, 2006, five months after Governing Board Approval.

Required  
Actions:

The ARB recognizes the importance of ensuring that anticipated emission reductions are achieved in California's most severely polluted region and that the Carl Moyer Program funds remain in the District to achieve the much needed reductions. The District also recognizes the importance of expediting projects to obtain reductions at the earliest, most practicable date. Since all Year 5 and 6 funds advanced to SCAQMD have been awarded to approved projects and are currently bound by fully executed contracts, the ARB has decided that it will not recapture these funds. However, the district is required to provide quarterly reports and provide updated annual reports and cost-effective calculations for all years of funding. Further, the District will not receive any additional disbursements of funds until full expenditures can be documented. The ARB will audit the District again in 2007.

Quarterly Reports:

The District must provide quarterly expenditure reports to the ARB for any funds that are past expenditure deadlines. The reports must discuss the following:

1. Current status of expenditures
2. Current status of project selection, contract execution and expenditures of turn back funds

3. Current status of project selection, contract execution and expenditures of interest

The report must also have the following attachments:

1. Copies of Carl Moyer Program project invoices SCAQMD has paid
2. Updated cost-effective calculations reflecting changes in existing projects or new projects selected as a result of turn back funds

The quarterly reports are due as follows:

1. 60 days from date of the audit report cover letter
2. Six months from date of the audit report cover letter
3. Nine months from date of the audit report cover letter
4. One year from date of the audit report cover letter

Annual Reports and Revised Cost-effective Calculations:

As a result of the expenditure finding, the ARB believes the reports on file regarding the SCAQMD Carl Moyer program are not accurate. The District has agreed to provide updated annual reports and updated cost-effective calculations for Years 1 through 7 in September 2006.

Holding of Additional Funds:

SCAQMD requested and received an initial disbursement of \$1,328,443 of Year 7 funds in 2005. SCAQMD has also requested a check for the remaining Year 7 funds (\$10,853,540) and an initial disbursement of their reserved \$35,366,250 Year 8 funds. However, as a result of the late expenditures, the ARB is holding these funds until SCAQMD can document full expenditures for Years 1 through 6.

Once the ARB has received expenditure documentation for these funds SCAQMD will be allowed to submit another request for the remaining Year 7 and 8 funds. In addition, as long as the SCAQMD is not deemed an “at-risk” district they will be allowed to reserve Year 9 funds later this year.

Follow-up Audit in 2007:

The District has ensured the ARB that all funds through Year 7 will be fully expended by July 1, 2007. Over the next year the ARB will work closely with SCAQMD to track expenditure progress. In addition, the ARB will return to the District in August of 2007 to conduct a follow-up audit to verify full expenditure of these funds. If the funds (including turn back funds as a result of a project change) have not been fully expended by July 1, 2007 then the SCAQMD will be deemed an “at-risk” district as defined in section XI.B.1. of the 2005 Guidelines and the ARB will look to recapture funds.

**Finding 2: Miscalculations for Projects.**

Condition: During the audit several miscalculations of cost-effectiveness were found. Two of the miscalculations (contract numbers 5237 and 6126) resulted in the execution of contracts for amounts that did not meet the cost-effectiveness threshold. This finding requires repayment of \$6,317 from contract 5237 and an amendment to contract 6126 to decrease the contract amount by \$3,703. This finding also requires the reprogramming of these funds, totaling \$10,020 in Carl Moyer Program State funds.

In response to this finding, SCAQMD is in the process of requesting reimbursement of the overpaid amount of contract 5237 and is modifying contract 6126 to reduce the award amount. In addition, SCAQMD has reprogrammed these funds to a project approved by the SCAQMD Governing Board on July 14, 2006.

**Required**

Action: The District must provide documentation proving reimbursements for the overpayment of contract 5237. The District must also provide ARB with a copy of the fully executed amendment for contract 6126. District staff must provide ARB with revised annual reports and cost-effective calculations for all affected years. The reports must contain the pertinent information for the new, qualified Carl Moyer Program project and update the calculations for contracts 5237 and 6126.

**Finding 3: Minimum contract requirements for projects funded with Year 8 funds were not included in the District's new contract.**

Condition: The contract template language (between the District and engine owners) used to obligate Year 7 and 8 funds do not include one of the minimum requirements outlined in the 2005 Carl Moyer Program Guidelines. The specific requirement not included in the boilerplate contract includes a disclosure of funds statement for the owner to complete and sign. This requirement is specified in section VIII.C.3. of the 2005 Guidelines.

During the audit period the District prepared a disclosure of funds statement that was reviewed by the ARB and sent to all Year 7 awardees for signature. The District has also submitted a revised copy of the contract boilerplate language for Year 8 contracts to the ARB, which includes the disclosure of funds statement.

**Required**

Actions: The District must ensure receipt of signed copies of the disclosure of funds statement for all Year 7 applicants and include appropriate copies in the project file with the original contract. Once this is complete the District

shall provide the ARB with written notification of completion. The District must also ensure use of the revised Year 8 boilerplate contract language that includes the disclosure of funds statement for all Year 8 contracts.



## ATTACHMENT

### South Coast Air Quality Management District 2006 Carl Moyer Program Audit List of Projects Reviewed

Contract Number	Project Name	Source Category	File Review	Site Visit
<b>Year 5</b>				
4187	Altfillisch Contractors	Off-road	X	X
5038	City of Redlands	On-road	X	X
51341	Clean Air Partner Transportation Systems. Inc.	Locomotive	X	
3099	LA County Sanitation District	Infrastructure	X	X
4139	Nationwide Environmental Services	On-road	X	
4140	Pacific Harbor Line, Inc.	Locomotive	X	
4176	Railpower Technologies	Locomotive	X	X
4160	Railsolve	Locomotive	X	X
5020	Two Harbors	Marine	X	X
4156	Yusen Terminals Inc.	Off-road	X	
<b>Year 6</b>				
5170	Ameron International	Off-road	X	
6011	City of Whittier	On-road	X	
52381	Clean Air Partner Transportation Systems, Inc.	Locomotive	X	
6030	Clean Energy, Foothill Transit	Infrastructure	X	X
5167	Fontana Steel	Off-road	X	X
5237	Frontier Aluminum Corporation	Forklift	X	
6041	IdleAire	Idle Reduction	X	
6223	Kimberly Salas	Marine	X	
5167	Peed Equipment	Off-road	X	X
5209	Shaw Diversified Services Inc.	Forklift	X	X
5168	TAMCO Steel	Off-road	X	X
52451	Varner Construction Inc.	Off-road	X	X
<b>Year 7</b>				
6126	City of Newport	On-road	X	
6151	Norwalk – La Mirada Unified School District	On-road	X	





# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

October 27, 2006

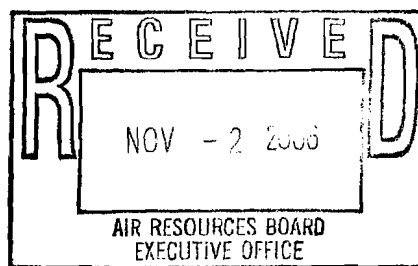
*Office of the Executive Officer  
Barry R. Wallerstein, D.Env.  
909.396.2100, fax 909.396.3340*

## VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

Catherine Witherspoon  
Executive Officer  
California Air Resources Board  
1001 "I" Street  
P.O. Box 2815  
Sacramento, CA 95812

*Re: 2006 Carl Moyer Program Audit*

Dear Ms. Witherspoon:



This letter presents the South Coast Air Quality Management District ("SCAQMD") staff's response to the Air Resources Board's ("CARB") Final Carl Moyer Air Quality Standards Attainment Program Audit Report, dated October 2006, and also constitutes the required written plan of action to address the audit report's three formal findings. While we disagree with several of the audit conclusions/recommendations, I want to make note of the highly professional manner in which the CARB staff conducted the audit. Our comments are provided below for each finding.

### Finding 1

CARB states in Finding 1 that "SCAQMD fiscal records indicate that at least \$10,043,180 of the \$15,596,747 Proposition 40 funds have not been expended by the District within the two year timeframe required under State law . . ." The audit finding acknowledges that these funds are currently committed in fully executed contracts, although final payments to the contractors have not yet been made. CARB also states that the SCAQMD must provide quarterly expenditure reports to CARB for all funds that are past expenditure deadlines, and that the SCAQMD will not receive any additional disbursements of Year 7 or 8 funds until full expenditure of past funds can be documented.

### *SCAQMD's Response:*

SCAQMD understands that CARB has made the determination regarding late expenditure of \$10,043,180 based upon an interpretation that the term "expenditure" requires that funds appropriated to the air districts be both committed under contract and

invoices paid within two years. **This interpretation, however, is inconsistent with both the intent of the Carl Moyer Program authorizing legislation and CARB's 2003 Carl Moyer Program Air Quality Standards Attainment Program Guidelines, which were in effect during Program Years 5 and 6.**

In analyzing the intent of the legislature in making an appropriation under Section 44287(k), it is necessary to look to the California Department of Finance (DOF), which has established uniform accounting guidance which is used by all state agencies in interpreting legal obligations with respect to fiscal appropriations by the state legislature. According to DOF's Glossary of Terms revised in December 2004 ([www.dof.ca.gov/fisa/bag/dofgloss.htm](http://www.dof.ca.gov/fisa/bag/dofgloss.htm)), the term "appropriation" is an "authorization for a specific agency to make expenditures and incur liabilities from a specific fund for a specific purpose and is usually limited in amount and period of time which the expenditure is to be incurred." In this case, the legislature requires that funds be "expended" within two years. DOF, however, has also defined this term, stating that an expenditure represents the amount of an appropriation used for goods and services ordered, whether paid for or not. In other words, under DOF guidelines, an agency can meet the statutory deadline to expend appropriated funds by encumbering the monies, which is defined by DOF to mean "a commitment of part or all of an appropriation," as expressed in documents such as purchase orders, and contracts.

It is our belief that when the state legislature appropriated Carl Moyer Program funds, it intended to adhere to these DOF guidelines. Indeed, if the legislature intended for different accounting terms to apply than those used by state agencies across the board, specific language would have appeared in either the statutory text or the legislative history. Therefore, SCAQMD fully complied with statutory requirements by committing all funds for years 5 and 6 within the two year deadline.

Similarly, CARB's 2003 Carl Moyer Guidelines require only that the funds reserved to a district be "obligated," which the SCAQMD has done, and which we interpreted to mean encumbered so as to be consistent with DOF guidelines. On pages 5-6 of the 2003 Guidelines, CARB states: "Districts must report project status including specific projects, state fund expenditures, additional funds obligated via contract or contracts in progress, and remaining funds that have not been obligated. Any funds not obligated by contract at the end of fiscal year are subject to reallocation as determined by the interpretation of Proposition 40 by the California Department of Finance."

In one instance CARB staff actually requested that SCAQMD de-obligate Moyer funds from an executed contract (\$443,534) and substitute funding for that project with State Mitigation funds from the electricity crisis. Obviously, this caused the de-obligated Moyer funds to be reallocated to a new project at a later time.

For Years 1-6 SCAQMD has relied on an annual solicitation process to select projects for program implementation instead of the first-come-first-served approach. This annual selection process achieves maximum emissions reductions as the most cost-effective projects are selected for awards. Through the same process a number of

additional program goals established by our Governing Board can also be addressed. These goals are:

- Environmental Justice (50%)
- Goods Movement (40%)
- Advanced Technologies
- Fleet Rules
- School Buses

Since the program's conception, the SCAQMD has fully funded over 1,700 individual projects with the anticipated reductions of over 2,000 tons per year of NOx and 32 tons per year of PM. In addition, during the first six years of the program the SCAQMD has also successfully implemented the State Emissions Mitigation Fund Program, fully funding the purchase of an additional 939 pieces of equipment in excess of \$27 million. These program funds reduce NOx emissions another 1,375 tons per year. We believe SCAQMD's selection of the most cost effective projects and projects located in disproportionately impacted areas achieves larger emission reductions for a longer period of time than required by CARB.

Because of the success of SCAQMD's implementation of both the Carl Moyer Program and the State Emissions Mitigation Fund Program, we do not believe that the delay in expending turn back funds from Years 5 and 6 has "delayed the expected emissions reduction for a significant portion of the program." Obviously obtaining an anticipated 300 tons per year of NOx reductions and approximately 15 tons per year of PM as early as possible is important in the SCAQMD. But we do not believe that CARB's findings fully take into account SCAQMD efforts over the past decade to implement these voluntary emission reduction programs, including efforts to reallocate turn back funds as soon as possible. Moreover, CARB's findings fail to take into account that the SCAQMD has been able to achieve an average cost-effectiveness of \$4,000 per ton in projects funded by Carl Moyer, which is substantially lower than the program cap of \$14,300. This means that the SCAQMD has achieved anticipated emission reductions that are far greater than allowed by the legislation, and the equipment/vehicles funded under the Carl Moyer Program are anticipated to operate between ten to twenty years.

SCAQMD acknowledges that in the most recent version of the Carl Moyer Program Guidelines CARB specifically requires that funds be obligated within one year and expended within two years from the reservation. It is our understanding that CARB defines "expended" as used in the new guidelines, and requires that the award monies be actually paid to the project within two years. Although, for reasons noted above, we do not believe this is required by the statute, SCAQMD has revised its program process to meet the new time requirements established by CARB.

SCAQMD is also very concerned that CARB's proposal to withhold disbursements of Program Years 7 and 8 funds may have the unintentional effect of jeopardizing the viability of the program in Fiscal Years 2006/07, 2007/08 and beyond. The SCAQMD has already entered into Year 7 binding contracts for approximately 23

projects in excess of \$11.9 million. These projects are anticipated to achieve future reductions of approximately 385 tons per year of NOx and 14.7 tons per year of PM. Invoices for these projects are already arriving to the District, and all invoices are due by June 2007. SCAQMD is also in process of entering into Year 8 contracts in excess of \$30.5 million and invoices for these projects will start arriving within a few months. AQMD does not believe, from an accounting or legal standpoint, it is appropriate to use non-Year 7 or Year 8 funds to pay these invoices. Thus, without availability of funds previously awarded by CARB to the district, prompt payment of these invoices cannot be assured and contracts will have to be cancelled. We are concerned that this could negatively impact the reputation and continuing success of the Carl Moyer Program. If this were to occur, substantial future emission reduction opportunities would be lost. We don't believe that CARB intends such consequences, but SCAQMD needs immediate written confirmation that the Year 7 funding is forthcoming soon.

In addition, SCAQMD does not believe that the decision to hold back disbursement of Year 7 and 8 funds is a remedy authorized in either the Health & Safety Code or the CARB program guidelines. Pursuant to the guidelines, CARB is to provide a district with a written review of the audit, including, if applicable, any deficiencies in the district's program that require correction. The district has 30-days to correct the deficiencies and respond in writing to the report. CARB must also provide the district with the opportunity for training and technical assistance to develop and implement a corrective management plan. Only if the CARB determines that the district has not taken adequate corrective action within the allotted 30 days will the district be deemed "at-risk." In this case, SCAQMD has re-obligated the turn back funds (see attachments 1 and 2), and committed to CARB that all such funds will be fully expended by July 2007. CARB has acknowledged that this corrective action is sufficient.

*SCAQMD's Plan of Action:*

First, in order to adhere with CARB's new program guidelines requirements, SCAQMD has developed specific project timelines, which were recently incorporated in the SCAQMD's Governing Board approved Carl Moyer Program Guidelines, to ensure that all contracts are fully executed within one year and that all invoices are received and paid within two years. These timelines will be strictly adhered to the degree humanly possible. As an example, the Year 8 awards for 46 projects totaling about \$30.5 million have already been granted and the contractors will have at least 18 months rather than a year to complete their projects by the due date of June 30, 2008.

Second, SCAQMD has taken steps to reduce any potential delay in reallocating so-called "turn back funds," such as where a contractor decides not to move forward with all or part of a previously executed contract. This delay is mostly associated with the need to obtain Governing Board approval to award the turn back funds to a new contractor. In July 7, 2006, our Governing Board authorized its Chairman to expend turn back funds by executing contracts from a back-up list of unfunded projects that meet Carl Moyer criteria and were previously approved by the Board. A copy of the Governing Board letter approving this action is attached (attachment 1).

Finally, to ensure sufficient projects will be funded by June 30, 2007, which is the final date to expend Program Year 7 funds, SCAQMD staff is recommending that the Governing Board authorize a Program Announcement in an amount not to exceed \$12 million from the Clean Fuels Fund and the Carl Moyer Program turn back funds to fund cleaner construction equipment on a first come, first serve basis. All equipment funded under this Program Announcement must be installed by May 31, 2007 and invoiced no later than June 30, 2007. We believe this will ensure sufficient projects will be available so that all Program 7 funds will be expended within the deadline set in the new CARB guidelines. SCAQMD staff will be taking this item to the Governing Board for approval in November 3, 2006 (attachment 2).

*Quarterly Reports:* In accordance with Finding 1, SCAQMD will provide CARB reports for any funds that are past expenditure deadlines. The reports will discuss:

- Current status of expenditures;
- Current status of program selection, contract execution and expenditures of turn back funds; and
- Current status of project selection, contract execution and expenditures of interest.

The reports will be provided to CARB on a quarterly basis, beginning 60 days from the date of the audit report cover letter. The report will include copies of Carl Moyer Program project invoices paid by SCAQMD and updated cost-effectiveness calculations reflecting changes in existing projects or new projects selected as a result of turn back funds.

*Annual Reports and Revised Cost-effective Calculations:* As previously agreed to, the SCAQMD staff has already provided CARB an updated annual report and updated cost-effective calculation for Program Years 1 through 7 to reflect any change made to existing projects or the award of new projects as a result of turn back funds.

## **Finding 2**

CARB determined during the audit that miscalculations of cost-effectiveness in two projects (numbers 5237 and 6126) resulted in contracts for amounts that did not meet the cost-effectiveness thresholds. CARB determined that for contract 5237, repayment of \$6,317 was required. For contract 6126, a contract amendment was required to reduce funding by \$3,703.

### *SCAQMD's Response and Plan of Action:*

*Contract 6126:* SCAQMD has recalculated the cost-effectiveness for this project and amended the contract. A copy of the amendment was previously provided to CARB. Since the \$3,703 in question was never paid to the contractor, this issue is resolved.

*Contract 5237:* We agree that there was an error in the original calculation performed by SCAQMD staff and reviewed by CARB staff. SCAQMD recalculated the cost effectiveness of this project, and has provided that information to CARB. This project was fully funded before completion of the audit. SCAQMD has sent a letter to the contractor seeking reimbursement of \$6,317 (attachment 3). The contractor has not responded to the request as of the date of this letter. SCAQMD will either retrieve the \$6,317 in question or pay the local Moyer Program back that amount from our budget.

### **Finding 3**

CARB identified that for Program Years 7 and 8, project files showed that the project awardees had not signed "Disclosure of Funds" statements required by the Carl Moyer Guidelines.

#### *Response and Plan of Action:*

As CARB is aware, this is a new requirement just implemented for Program Year 7 awards. SCAQMD had prepared a disclosure statement, but it was inadvertently left out of individual award packets. As of the date of this letter, appropriate disclosure of fund language has been incorporated into our contract boilerplate for Carl Moyer Program awards, and contract modification forms have been sent out to all of the Program Year 7 awardees for signature to include the required language. Both the boilerplate contract language and a copy of the modification forms were sent to CARB staff on July 27, 2006.

SCAQMD sent via FedEx to CARB signed copies of all disclosure forms for all Year 7 applicants on October 19, 2006. Thus, Finding 3 has been fully addressed and resolved.

\* \* \* \* \*

Please feel free to call me at 909-396-2100 if you have any questions regarding our response

Sincerely,



Barry Wallerstein, D.Env.  
Executive Officer

#### **Attachments**

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# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

BOARD MEETING DATE: July 7, 2006

AGENDA NO. 38

**PROPOSAL:** Execute Contracts for Carl Moyer Memorial Air Quality Standards Attainment Program with Returned Funds from Incomplete Projects

**SYNOPSIS:** The AQMD has administered its Carl Moyer Program since FY 1998-99, awarding more than \$85 million in projects for purchase of low-emitting heavy-duty vehicles, engines, and equipment. Some of the awarded contracts have been returned by the recipients due to various reasons such as economic conditions and other business priorities. This action is to execute new contracts under the Carl Moyer Program with companies that were unable to receive funds in the last round of awards in February 2006, with turn-back funds in an amount not to exceed \$9.1 million.

**COMMITTEE:** Technology, June 23, 2006, Recommended for Approval

## RECOMMENDED ACTIONS:

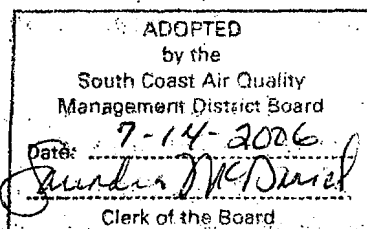
A. Authorize the Chairman to execute the following contracts with turn-back dollars from the Carl Moyer Program Fund:

1. A contract with Rentrac for the repower of five diesel dual engine scrapers in an amount not to exceed \$1,064,270 from the Carl Moyer Program Fund Prop. 40 Account.
2. A contract with Cash Grading for the repower of one dozer and 5 diesel dual engine scrapers in an amount not to exceed \$74,614 from the Carl Moyer Program Prop. 40 Account and \$862,545 from the Carl Moyer Program Fund.
3. A contract with Bruno Farms for the repower of one diesel agricultural tractor in an amount not to exceed \$55,821 from the Carl Moyer Program Fund SB1107 Account.
4. A contract with JKM Equipment for the repower of seven diesel dual engine scrapers in an amount not to exceed \$1,277,124 from the Carl Moyer Program Fund SB1107 Account and \$212,854 from the Carl Moyer Program Fund.
5. A contract with Yeager Skanska for the repower of one dual engine scraper in an amount not to exceed \$194,000 from the Carl Moyer Program Fund.

6. A contract with Parsec, Inc. for the purchase of ten new LNG yard tractors in an amount not to exceed \$489,780 from the Carl Moyer Program Fund.
7. A contract with KEC Engineering for the repower of four diesel cranes in an amount not to exceed \$137,592 from the Carl Moyer Program Fund.
8. A contract with Moss Equipment for the repower of 10 diesel dual engine scrapers in an amount not to exceed \$1,326,625 from the Carl Moyer Program Fund.
9. A contract with TNT Grading to repower seven diesel scrapers in an amount not to exceed \$608,438 from the Carl Moyer Program Fund.
10. A contract with American Contracting to repower two diesel dual engine scrapers in an amount not to exceed \$374,990 from the Carl Moyer Program Fund.
11. A contract with Dalton Trucking to repower two diesel pipe loader in an amount not to exceed \$52,590 from the Carl Moyer Program Fund.

**B. Authorize the Chairman to modify the following contracts with turn-back dollars from the Carl Moyer Program Fund:**

1. A contract with Pick Your Part to add the repower of three diesel scrap metal loaders in an amount not to exceed \$20,065 from the Carl Moyer Program Fund Prop. 40 Account, \$20,065 from the Carl Moyer Program Fund SB1107 Account, and \$24,967 from the Carl Moyer Program Fund to the existing contract that is for the repower of 16 diesel scrap metal loaders for \$496,988 from the Carl Moyer Program Fund Account AB923 originally approved on February 3, 2006.
2. A contract with Sukut Equipment to add the repower of five diesel dozers, and six diesel single engine scrapers in an amount not to exceed \$41,893 from the Carl Moyer Program Fund Prop. 40 Account, and \$740,522 from the Carl Moyer Program Fund to the existing contract that is for the repower of one dual engine and 16 single engine diesel scrapers for \$1,488,925 from the Carl Moyer Program Fund AB923 Account originally approved on February 3, 2006.
3. A contract with Jagur Tractor to add the repower of eight diesel dual engine scrapers in an amount not to exceed \$1,438,560 from the Carl Moyer Program Fund to the existing contract that is for the repower of nine diesel scrapers for \$794,903 from the Carl Moyer Program Fund AB923 Account originally approved on February 3, 2006.



Barry R. Wallerstein, D.Env.  
Executive Officer

### **Background**

The Carl Moyer Memorial Air Quality Standards Attainment Program (CMP) provides funding on an incentive basis for the incremental cost of purchasing cleaner than required engines and equipment. Eligible projects include cleaner on- and off-road, marine, locomotive, and agricultural engines, as well as forklifts, airport ground support equipment, and auxiliary power units. To date, the AQMD has awarded more than \$85 million in projects for purchase of low-emitting heavy-duty vehicles, engines, and equipment under its Carl Moyer Program. Some of the awarded contracts have been returned by the recipients due to various reasons such as economic conditions and other business priorities. Table 1 shows the total amount of returned funds currently available under the Carl Moyer Program, and Table 2 shows the detailed breakdown of the turn-back funds.

**Table 1: Carl Moyer Program Available Dollars**

<b>Funding Source</b>	<b>Available Amount</b>
SB 1107	\$1,353,077
Carl Moyer Turn-Back (Proposition 40 funds)	\$1,200,602
Carl Moyer Turn-Back (Non Proposition 40 funds)	\$6,461,127
<b>Total</b>	<b>\$9,014,806</b>

**Table 2: Returned Program Dollars**

AWARD RECIPIENT	AMOUNT DECLINED	ACCOUNT
<b>FY 1999-00</b>		
American Marine	\$60,862	CMP
Seaboard Marine	\$16,900	CMP
<b>FY 2000-01</b>		
City of Pasadena	\$14,000	CMP
London Bus & Taxi	\$194,040	CMP
Lowe's	\$269,403	CMP
Palm Springs Disposal	\$192,221	CMP
Sysco	\$90,636	CMP
Ware Disposal	\$176,865	CMP
<b>FY 2001-02</b>		
Blue Barrel Disposal	\$134,490	CMP
Altfillisch	\$44,131	CMP
G&B Rubbish	\$124,708	CMP
Nationwide Environmental	\$227,325	CMP
Sysco	\$315,900	CMP
Sukut Construction	\$150	CMP
USA Waste, LA Metro	\$72,600	CMP
USA Waste, Sun Valley	\$121,000	CMP
Waste Mgmt. Orange County-Dewey's	\$132,325	CMP
Waste Mgmt. San Gabriel/Pomona Valley	\$319,728	CMP
Waste Mgmt. San Gabriel/Pomona Valley	\$459,800	CMP
WXRT - Express Reefer Transport	\$2,000,000	CMP
<b>FY 2002-03</b>		
Athens Services	\$65,181	Prop 40
City of Cathedral City	\$7,908	Prop 40
City of Los Angeles	\$6,200	Prop 40
County Sanitation Districts of L.A.	\$99,650	Prop 40
Enterprise Rent-a-Car	\$45,317	CMP
Herigstad Equipment Rental	\$360,888	CMP
Interstate Sweeping Services	\$67,500	Prop 40
Jagur Tractor	\$171,310	CMP
Mellon Grading	\$140,450	CMP
Roadbuilders	\$78,673	CMP
Tidewater Marine	\$404,232	CMP
Two Harbor Enterprises	\$20,339	Prop 40
<b>FY 2003-04</b>		
Catalina Passenger Services	\$396,955	Prop 40
London Bus & Taxi	\$285,000	Prop 40
Omnitrans	\$64,000	Prop 40
Shaw Diversified Services, Inc.	\$63,805	Prop 40
Clean Street	\$97,632	Prop 40
Southern California Regional Rail	\$282,000	CMP
City of Whittier	\$26,432	Prop 40
<b>FY 2004-05</b>		
Unused Funds	\$388	SB1107
City of Los Angeles	\$960,749	SB1107
Altfillisch	\$391,940	SB1107
City of Banning	\$11,173	CMP
<b>TOTAL DECLINED AWARDS</b>	<b>\$9,014,806</b>	

## **Proposal**

At its July 8, 2005 meeting, the Board approved the release of RFP #P2006-01 to solicit proposals for Year Seven of the Carl Moyer Program. By the closing date of September 30, 2005, a total of 72 proposals were submitted requesting approximately \$52 million in funding. On December 2, 2005, and February 3, 2006, the Board approved awards for a total of \$19,625,677. This action is to execute new contracts under the Carl Moyer Program with companies that were unable to receive funds in the last round of awards under RFP #P2006-01, with turn-back funds in an amount not to exceed \$9,017,315. This amount is comprised of \$1,353,010 from the Carl Moyer Program Fund Account SB1107, \$1,200,842 from the Carl Moyer Program Fund Account Proposition 40, and \$6,463,463 from the Carl Moyer Program Fund. Table 3 provides a detailed list of all the projects proposed for funding.

Total NOx and PM reductions from the recommended projects are approximately 463 tons/year and 16 tons/year, respectively. All the recommended award recipients have agreed to complete the recommended projects by June 30, 2007.

In case of availability of additional turn-back funds, staff recommends the Board to approve the selection of projects and execution of contracts from unfunded projects under RFP #P2006-01, which is provided as a back-up list in Attachment 1.

## **Funding Distribution**

Table 4 summarizes staff's recommendation for awards in disproportionately impacted areas under the requirements of AB1390. The total amount of projects funded in disproportionately impacted areas is \$6,914,027. The total amount of projects funded solely based on cost-effectiveness is \$2,100,288. In summary, 76.7% of the projects are in disproportionately impacted areas. The requirements of AB 1390 are implemented according to the following criteria.

- 1) All projects must qualify for the Carl Moyer program by meeting the cost effectiveness limits established in the RFP.
- 2) All projects were evaluated according to the following criteria to qualify for funding under DI requirements:
  - a) Poverty Level: All projects in areas where at least 10% of the population falls below the Federal poverty level based on the year 2000 census data, are eligible to be included in this category, and
  - b) PM Exposure: All projects in areas with the highest 15% of PM concentration will be eligible to be ranked in this category. The highest 15% of PM concen-

tration level is 46 micrograms per cubic meter and above, on an annual average, or

- c) Air Toxics Exposure: All projects in areas with a cancer risk of 1,000 in a million and above (based on MATES II estimates) will be eligible to be ranked in this category.

**Table 3: Recommended Awards by Fund Accounts**

<b>Carl Moyer Program Proposition 40 Account</b>	<b>Awards</b>
Rentrac	\$1,064,270
Cash Grading	\$74,614
Pick Your Part	\$20,065
Sukut	\$41,893
<b>Total Prop. 40 Account</b>	<b>\$1,200,842</b>
<b>Carl Moyer Program Funds</b>	<b>Awards</b>
Cash Grading	\$862,545
JKM Equipment	\$212,854
Yeager Sanska	\$194,000
Parsec	\$489,780
KEC Engineering	\$137,592
Moss Equipment	\$1,326,625
TNT Grading	\$608,438
American Contracting	\$374,990
Dalton Trucking	\$52,590
Pick Your Part	\$24,967
Sukut	\$740,522
Jagur	\$1,438,560
<b>Total Carl Moyer Program Funds</b>	<b>\$6,463,463</b>
<b>Carl Moyer Program SB1107 Account</b>	<b>Awards</b>
Bruno Farms	\$55,821
JKM Equipment	\$1,277,124
Pick Your Part	\$20,065
<b>Total SB1107 Account</b>	<b>\$1,353,010</b>
<b>Grand Total</b>	<b>\$9,017,315</b>

**Table 4: Award Recommendations and Proposed Funding Distribution**

Projects Under AB1390	Awards
Cash Grading	\$ 937,159
Pick Your Part	\$ 65,097
Sukut	\$ 782,415
JKM	\$1,489,978
Yeager Sanska	\$ 194,000
Parsec	\$ 489,780
KEC Engineering	\$ 137,592
Moss Equipment	\$1,326,625
Jagur	\$1,438,560
Bruno Farms	\$ 52,821
<b>Total AB1390</b>	<b>\$6,911,027</b>
Projects Solely Based on Cost Effectiveness	Awards
Dalton	\$ 52,590
American Contracting	\$ 374,990
Rentrac	\$1,064,270
TNT	\$ 608,438
<b>Total Cost Effectiveness Only</b>	<b>\$2,100,288</b>

## Outreach

In accordance with AQMD's Procurement Policy and Procedure, a public notice advertising the RFP/RFQ and inviting bids was published in the following publications:

- |                                 |                            |  |
|---------------------------------|----------------------------|--|
| 1. Antelope Valley Press        | 11. La Opinion             | 21. Rafu Shimpō                            |
| 2. Black Voice News             | 12. La Prensa Hispana      | 22. San Bernardino Sun                     |
| 3. Chinese Daily News           | 13. La Voz Publications    | 23. State of California Contracts Register |
| 4. Desert Sun                   | 14. Los Angeles Daily News | 24. The Daily Breeze                       |
| 5. Eastern Group Publications   | 15. Los Angeles Sentinel   | 25. The Excelsior                          |
| 6. El Chicano                   | 16. Los Angeles Times      | 26. The Signal                             |
| 7. El Informador                | 17. Orange County Register | 27. Wave Community Newspapers              |
| 8. Inland Empire Hispanic News  | 18. Philippine News        |  |
| 9. Inland Valley Daily Bulletin | 19. Precinct Reporter      |  |
| 10. Korea Central Daily         | 20. Press Enterprise       |  |

Additionally, potential bidders may have been notified utilizing the Los Angeles County MTA Directory of Certified Firms, the Inland Area Opportunity Pages Ethnic/Women Business & Professional Directory; and AQMD's own electronic listing of certified minority vendors. Notice of the RFP/RFQ was mailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at AQMD's Web site (<http://www.aqmd.gov>).

Information was also available on AQMD's bidder's 24-hour telephone message line (909) 396-2724.

### **Benefits to AQMD**

AQMD's Clean Fuels Program has been active in funding the development and demonstration of low emission, alternative fuel technologies within its Technology Advancement Office. The AQMD has also supported a number of activities directed to commercialization of low-emission alternative fuel technologies. The successful implementation of the Carl Moyer Program is a direct result of these technology advancement activities. The vehicles and equipment funded under this recommendation will operate many years and will provide long-term emissions reductions.

### **Resource Impacts**

Funding for the recommended projects shall not exceed \$9,017,315 in turn-back funds under the Carl Moyer Program comprised of \$1,353,010 from the Carl Moyer Program Fund Account SB1107, \$1,200,842 from the Carl Moyer Program Fund Proposition 40 Account, and \$6,463,463 from the Carl Moyer Program Fund, which includes projected interest.

### **Attachment**

Backup list of Qualified Projects from RFP #P2006-01



**Attachment 1**  
**Backup List of Qualified Projects from RFP #P2006-01**

Company	Equipment	Requested Funding
Moss Equipment	Diesel repower of 7 single engine scrapers	\$ 551,011
American Contracting	Diesel repower of 8 dual engine scrapers	\$1,499,960
Larry Jacinto Construction	Diesel repower of 4 dozers, 3 single engine scrapers, and 1 loader	\$ 440,476
Road Builders	Diesel repower of 4 dozers	\$ 399,147
TNT	Diesel repower of 3 dual engine scrapers, 2 water pulls, 1 tractor	\$ 625,827
<b>Total</b>		<b>\$3,516,421</b>



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

BOARD MEETING DATE: November 3, 2006

AGENDA NO. 8

**PROPOSAL:** Issue Program Announcement to Solicit Projects for Cleaner Construction Equipment Under the Carl Moyer Program, Correct Name of Existing Contract, and Allow Acceptance of 2006 and Newer Model Year Vehicle Applications Under the Fleet Modernization Program

**SYNOPSIS:** CARB's Carl Moyer Program guidelines have strict requirements for expenditure of funds for each year before allocation of new funds for each subsequent year. This action is to issue a Program Announcement in an amount not to exceed \$12 million from the Clean Fuels Fund and the Carl Moyer Program returned funds to fund cleaner construction equipment on a first come first served basis with the requirement that all equipment be installed by May 31, 2007, and be invoiced no later than June 30, 2007. This action is also to correct the name of an awarded contract, and also to allow the purchase of 2006 and newer model year diesel vehicles rather than 2006 model years only under the Fleet Modernization Program.

**COMMITTEE:** Technology, October 27, 2006

## RECOMMENDED ACTIONS

1. Approve issuance of Program Announcement PA# 2007-07 in an amount not to exceed \$12 million, to solicit off-road projects under the Carl Moyer Program on a first come, first served basis.
2. Approve correction of an error by changing the name of an awarded contract from its owner's name of Kimberly Salas to its company name of Harbor Breeze Corporation under the Carl Moyer Program.
3. Approve revising the Fleet Modernization Program Announcement #PA2007-01, to accept applications for the purchase of model years 2006 and newer heavy-duty diesel vehicles rather than 2006 model year vehicles only, as newer models become available.

Barry R. Wallerstein, D.Env.  
Executive Officer

## **Background**

The Carl Moyer Memorial Air Quality Standards Attainment Program (CMP) provides funds on an incentive basis for the incremental cost of purchasing cleaner than required engines and equipment. CARB's Carl Moyer Program guidelines have strict requirements for expenditure of funds for each year before allocation of new funds for each subsequent year. Therefore, all outstanding funds must be expended no later than June 30, 2007 for the AQMD to receive future funding. Due to the nature of the Carl Moyer Program, it is not unusual to have a quantity of returned funding during a program year. The new requirement makes it difficult to conduct the program annually and meet the fund expenditure deadlines. Therefore, creating a pool of completed backup projects funded with the Clean Fuels Fund, and the expedited reallocation of any Carl Moyer returned funds to complete new projects, will enable the AQMD to expend the program funding in a timely manner.

## **Proposal**

### *Carl Moyer Program Announcement*

This action is to issue a program announcement for heavy-duty off-road construction or similar equipment in an amount not to exceed \$12 million comprised of Carl Moyer Program returned funds and up to \$4 million from the Clean Fuels Fund. The projects will be funded on a first come first served basis. All the projects must have a maximum cost-effectiveness level of \$5,000/ton for combined emission reductions of NOx + ROG + (20 x PM), and they must be installed by May 31, 2007, and be invoiced no later than June 30, 2007. Under CARB's Carl Moyer Program guidelines funding for each year must be expended within two years from the date of their allocation. Due to the variety of projects with a short implementation time coupled with the fact that a number of project fundings are returned each year, it is imperative to implement a backup system in order to have a pool of available projects for substituting the returned projects in an expedited manner. Projects funded with the Clean Fuels Fund will therefore be available to be substituted with any returned funds from incomplete projects from years 1 through 7. The \$4 million from the Clean Fuels Fund will then revert as returned funds from Moyer projects become available. This will ensure the timely expenditure of all the Carl Moyer Program funds and will enable the AQMD to receive its fair share of funds from CARB each year. At no time will more than \$4 million from the Clean Fuels Fund be used to create a pool of backup projects.

### *Correction of a Carl Moyer Program Contract*

This action is to approve correction of an error by changing the name of an earlier awarded contract from its owner's name of Kimberly Salas to its company name of Harbor Breeze Corporation under the Carl Moyer Program.

### *Fleet Modernization Program Announcement #PA2007-01*

This action is to approve revising the Fleet Modernization Program Announcement #PA2007-01, to accept applications for the purchase of model years 2006 and newer

heavy-duty diesel vehicles rather than 2006 model year vehicles only, as newer models become available.

### **Outreach**

In accordance with AQMD's Procurement Policy and Procedure, a public notice advertising the Program Announcement and inviting bids will be published in the Los Angeles Times, the Orange County Register, the San Bernardino Sun, and Riverside County Press Enterprise newspapers to leverage the most cost-effective method of outreach to the entire South Coast Basin.

Additionally, potential bidders may be notified utilizing AQMD's own electronic listing of certified minority vendors. Notice of the Program Announcement will be mailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at AQMD's Web site (<http://www.aqmd.gov/> where it can be viewed by making menu selections "Inside AQMD"/"Employment and Business Opportunities"/"Business Opportunities" or by going directly to <http://www.aqmd.gov/rfp/index.html>). Information is also available on AQMD's bidder's 24-hour telephone message line (909) 396-2724.

### **Benefits to AQMD**

The successful implementation of the projects under this program announcement will help the AQMD retain its fair share of state emission reduction funding under the CMP, and significantly reduce NOx and PM10 emissions in a cost effective and expeditious manner.

### **Resource Impacts**

The total project cost of up to \$12 million will be comprised of returned funds from the Carl Moyer Program Fund and up to \$4 million from the Clean Fuels Fund. The \$4 million from the Clean Fuels Fund will serve as a pool of backup projects and will gradually be returned to the Clean Fuels Program Fund, as additional CMP returned funds become available.

The Clean Fuels Program under Health and Safety Code Sections 40448.5 and 40512 and Vehicle Code Section 9250.11, establishes mechanisms to collect revenues from mobile sources to support projects to increase the utilization of clean fuels, including the development of the necessary advanced enabling technologies. Funds collected from motor vehicles are restricted, by statute, to be used for projects and program activities related to mobile sources that support the objectives of the Clean Fuels Program.

### **Attachment**

Program Announcement #PA2007-07 – Carl Moyer Heavy-Duty Off-Road Construction Equipment Program



# South Coast Air Quality Management District

Attachment 3

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • [www.aqmd.gov](http://www.aqmd.gov)

October 11, 2006

Mr. Mick Rapport  
Frontier Aluminum Corporation  
2480 Railroad Street  
Corona, CA 92880-5418

**Subject: AQMD Contract # 05237**

Dear Mr. Rapport:

It has come to our attention as a result of ARB's audit, in July 2006, of the AQMD's Carl Moyer Program that your company was awarded funding in excess of what is allowable. At the time of the analysis incorrect guidance was provided. As a result of new information, it has been determined that your FY 2003-04 Carl Moyer Program award needs to be adjusted.

Frontier Aluminum's award should have been \$7,448. The actual award of \$13,765 resulted in an overpayment of \$6,317 which must be returned to the Carl Moyer Program funds.

Regretfully, we must ask Frontier Aluminum to return the overpayment of \$6,317. If you wish to discuss this matter please contact me at 909 396-2641. Thank you for your attention to this matter.

Respectfully,

A handwritten signature in cursive script, reading 'Fred Minassian', is positioned above the typed name.

Fred Minassian  
Technology Implementation Manager  
[fminassian@aqmd.gov](mailto:fminassian@aqmd.gov)

FM:CD:lm